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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,023	06/26/2001	Kiyohiko Takagi	F-7041	1827

7590 11/14/2003
Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

COLEMAN, WILLIAM D

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,023

Applicant(s)

TAKAGI ET AL.

Examiner

W. David Coleman

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 and 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2823

DETAILED ACTION

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Abraham et al., U.S. Patent 5,883,007.

3. Pertaining to claim 1, see **FIGS. 1-5** where Abraham teaches a dry etching process including:

providing a substrate **100** having a plurality of stacked layers including metal layers and a base of glass;

introducing a processing gas into a vacuum chamber to achieve a predetermined controlled pressure level therein;

applying radio frequency power **305/320** (see **FIGS. 3**) to a substrate **350** placed within the vacuum chamber **300** for generating plasma (not shown) in the vacuum chamber, whereby the substrate is processed, the substrate having a plurality of stacked layers including metal layers;

Art Unit: 2823

etching the layers on the substrate with the processing gas until a time point when the surface of a lowermost layer on the substrate is etched; and
adding CHF (column 13, line 42), gas to the processing gas for etching the lowermost layer on the substrate.

4. Pertaining to claim 2, Abraham teaches the dry etching process according to Claim 1, wherein the etching process is effected through a method of determining a layer being processed (see figure 4).
5. Pertaining to claim 3, Abraham teaches the dry etching process according to Claim 1, wherein the lowermost layer on the substrate is the subject to be etched.
6. Pertaining to claim 4, Abraham teaches the dry etching process of claim 2, wherein the method of determining is monitoring the etching process by detecting plasma light intensity (column 6, lines 23-28).
7. Pertaining to claim 6, Abraham teaches the dry etching process of claim 4, wherein a non-aluminum reactive gas is added when the substrate includes a layer of aluminum.
8. Pertaining to claim 14, Abraham teaches the dry etching process of claim 2, wherein the method of determining is based upon the sampling data obtained from experimentation (see tables 1-4).
9. Pertaining to claim 16, Abraham teaches the dry etching process of claim 14, wherein a non-aluminum reactive gas is added when the substrate includes a layer of aluminum.

Art Unit: 2823

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 7, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 22 and 23 rejected under 35 U.S.C. 103(a) as being unpatentable over Abraham et al., U.S. Patent 5,883,007.

12. Abraham discloses a semiconductor process substantially as claimed.

13. Pertaining to claims 7, 8, 9, 10, 11, 117, 18, 19, 20 and 21 fails to teach any particular percentage of process gases as claimed. Given the teaching of the references, it would have been obvious to determine the optimum thickness, temperature as well as condition of delivery of the layers involved. See *In re Aller, Lacey and Hall* (10 USPQ 233-237) "It is not inventive to discover optimum or workable ranges by routine experimentation. Note that the specification contains no disclosure of either the critical nature of the claimed ranges or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen dimensions or upon another variable recited in a claim, the Applicant must show that the chosen dimensions are critical. *In re Woodruff*, 919 f.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Any differences in the claimed invention and the prior art may be expected to result in some differences in properties. The issue is whether the properties differ to such an extent that the difference is really unexpected. *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)

Art Unit: 2823

Appellants have the burden of explaining the data in any declaration they proffer as evidence of non-obviousness. *Ex parte Ishizaka*, 24 USPQ2d 1621, 1624 (Bd. Pat. App. & Inter. 1992).

An Affidavit or declaration under 37 CFR 1.132 must compare the claimed subject matter with the closest prior art to be effective to rebut a prima facie case of obviousness. *In re Burckel*, 592 F.2d 1175, 201 USPQ 67 (CCPA 1979).

14. Pertaining to claims 13 and 23, Abraham teaches the dry etching process according to one of Claims 7-21, wherein the metal layers of the plurality of stacked layers comprise an aluminum middle layer and titanium top and bottom layers.

15. Pertaining to claim 22, Abraham teaches the dry etching process according to one of claims 7-21, wherein the metal layers of the plurality of stacked layers comprise an aluminum middle layer and titanium top and bottom layers.

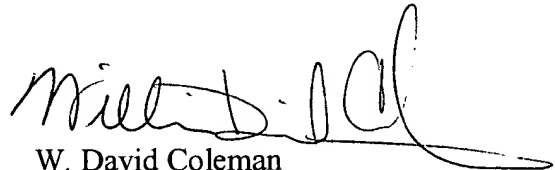
Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. David Coleman whose telephone number is 703-305-0004.

The examiner can normally be reached on 9:00 AM-5:00 PM.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on 703-306-2794. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



W. David Coleman
Primary Examiner
Art Unit 2823

WDC